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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,386	12/27/2001	Steve J. Shattil	FDI 001	9967

7590 06/23/2005

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EXAMINER

MILORD, MARCEAU

ART UNIT	PAPER NUMBER
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2682

DATE MAILED: 06/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/034,386	Applicant(s) SHATTIL, STEVE J.	
	Examiner Marceau Milord	Art Unit 2682	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 06 June 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because:
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: 17 and 18.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-16 and 19-21.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
 13. ☐ Other: _____.

Milord
MARCEAU MILORD
PRIMARY EXAMINER

6-6-2005

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's representative argues that Proakis, Thomas, and Age fail to teach a system exploiting multipath differences between received signals in order to spatially demultiplex the received signals.

However, Thomas discloses a method for jointly estimating the frequency response between multiple simultaneously transmitting devices and each of at least one antenna. The channel frequency response can be computed to be the weighted sum of the basis functions where each basis function is multiplied by its associated gain and phase weights. The combining weights are computed by reconstructing a set of spatial covariance matrices for all known desired signals plus the receiver-generated noise signal on each sub-carrier and time of interest (col. 16, lines 1-45; col. 10, lines 11-55; col. 11, lines 1-27). In addition, the channel transfer function estimates for each desired transmitter on each subcarrier can be used to find weights that cancel out known interference and possibly external interference (col. 17, lines 36-59; col. 18, lines 1-37).

Agee also discloses a method that adapts the antenna array as an intrinsic component of the despreading, linear combining operator. The retroactive mode sets the transmitter antenna array weights equal to the conjugated array weights computed during signal reception (col. 15, lines 30-66; col. 16, lines 1-63; col. 21, lines 34-60; col. 22, lines 32-67; col. 23, lines 30-62; col. 27, line 59- col. 28, line 48).

Art Unit: 2682

In response to applicant's argument that there is no suggestion to combine the references, the Examiner recognizes that references cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary and secondary references. In re Nomiya, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosure. In re Bozec, 163 USPQ 545 (CCPA) 1969. In this case, it would have been obvious for a person having ordinary skill in the pertinent art, at the time the invention was made, to apply the technique of Agee to the modified system of Thomas and Proakis in order to provide an effective means for implementing retro directive antenna arrays by reducing co-channel interference, and minimizing channel variation between the reception and transmission paths.